

Eleven Key Goals to Improve the Response to Domestic Violence in Washington State

7 Maximize the effectiveness of Domestic Violence Protection Orders to protect victims and their children.

Since our first report in 2000, the DVFR has identified the lack of advocacy and safety planning for Domestic Violence Protection Order petitioners as a critical gap in the protections available to victims. The lack of advocacy for petitioners not only misses an opportunity to connect petitioners with other important resources, it undermines the effectiveness of the Protection Order itself. Without advocacy, victims do not get help thinking through whether a Protection Order will increase safety, anticipating and planning for how the abuser may react, or strategizing about how to safely share parenting with the abuser. Victims in twenty-four reviewed cases petitioned for a Protection Order against the abuser. In only four of these cases did the victims get some assistance from an advocate in a community-based domestic violence program, a police department, or a court. The majority of petitioners in Washington State do not have access to advocacy when they petition for Protection Orders. A 2004 statewide survey of all courts issuing Protection Orders showed that 81% of courts do not have domestic violence advocacy available to petitioners at all, and only 7% routinely provide advocacy. More than two thirds of courts that do not routinely offer advocacy also fail to provide petitioners with brochures or pamphlets about domestic violence resources.

Two reviewed cases illustrated how petitioning for a Protection Order without any accompanying advocacy can actually increase some victims' danger. Two victims in reviewed cases were murdered between the time the Temporary Protection Order was served and the hearing date for the full order. In each of these cases, a range of professionals had advised the victim to obtain a Protection Order, but neither victim met with an advocate to make a comprehensive safety plan or consider whether the abuser was likely to intensify his violence in response to the order. These abusers' violence escalated to a lethal level within days of being served with the temporary order.

In four reviewed cases, victims' Protection Order petitions were denied by the courts. The costs to victims were clear and devastating. In one case, the victim's ex-husband had a history of physical violence against her years earlier. She was able to get away and was in hiding. However, he found her years later and began stalking, threatening, and harassing her and her children. The court denied her petition, citing "no recent violence." Ignoring the stalking, the judge told the victim the violence happened "a long time ago" so the court could not help her. The victim told Fatality Review staff that the abuser was emboldened by the court's decision

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and took it as a license to escalate his stalking and threats until finally he attempted to kill her and then killed himself. In another case, the victim's neighbor encouraged her to call police or get a court order to stop her husband's violence. The victim had already petitioned for a Protection Order but was denied, despite the fact that her petition documented the abuser's homicide and suicide threats and her fear that he would harm her. She told her neighbor that she had tried to get help from the court but they did not listen to her. As a result, the neighbor did not call police when she heard the victim being abused by her husband.

In reviewed cases, courts failed to adequately address physical child custody and visitation in Protection Orders, leaving victims and children vulnerable. Legislation allows for ruling on child custody or visitation in Protection Orders so that victims and children can receive immediate protections. Yet in a number of reviewed cases, courts did not respond to victims' requests to specify custody arrangements in their Protection Orders. In four cases, victims did not get Protection Orders at all and instead were referred to family court.

One victim obtained a Temporary Domestic Violence Protection Order against her husband a few weeks after she filed for divorce. The Protection Order granted the victim temporary custody of the child, and required the abuser to arrange visitation through a third party. When the abuser was served with the order, he petitioned the court in the dissolution case for an ex parte Restraining Order against the victim. The court granted the order and awarded him temporary custody of the child, in conflict with the existing Protection Order. The next day, the court amended the Restraining Order to be consistent with the Protection Order, and instructed the police department to assist in returning the child to the victim. When the victim and abuser appeared in court for the hearing to make the Temporary Protection Order permanent, the victim requested that the court dismiss the Protection Order. It appeared that the commissioner had urged the victim to drop the Protection Order, and address her safety concerns through the dissolution case instead. However, the court never provided protection for the victim in the dissolution case. In the parenting plan, the court ordered visitation for the abuser but did not make any arrangements for supervised exchange and did not include a Restraining Order. The panel reviewing the case agreed that judges and commissioners commonly pressure petitioners to drop Protection Order cases in order to avoid conflicting orders rather than issuing a Protection Order as part of a dissolution case. In this case, the court failed to make use of all the protections available to make safe parenting arrangements and left the victim and child without the protection they needed and were entitled to.

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Steps Forward

- **Courts:** Offer every Protection Order petitioner immediate advocacy and safety planning, preferably by having advocates located in the court. Explore using technology to provide advocacy remotely when courts are not able to provide advocacy on-site.
- **Courts:** Develop a process to resolve conflicting orders that provides petitioners with the maximum protection to which they are entitled. Contact WSCADV to learn about models in Washington courts.
- **Courts:** Create forms and establish procedures for victims to obtain a Domestic Violence Protection Order as part of a dissolution or parentage case, as provided for in RCW 26.50.025.

